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## ARTICLE II ADMINISTRATION

### 2.01 Board of County Commissioners

As an elected, legislative body, the Board of County Commissioners performs planning and development functions as authorized by various enabling provisions of the North Carolina General Statutes.

**A. Duties and Responsibilities.** The Board of County Commissioners performs the following duties:

1. Appoints the Planning Board and the Board of Adjustment;
2. Upon recommendation by the Planning Board, adopts, implements, and amends a comprehensive land use plan which establishes long-range goals and objectives regarding future development of the county;
3. Adopts, amends, and implements more-detailed area plans for smaller geographic areas, as well as policies related to special land use issues;
4. Adopts, amends, and implements other specialized plans, programs, and policies for functional topics like transportation, open space, and capital improvements;
5. By ordinance, adopts and amends regulations relating to zoning, subdivision of land, and other private development activities;
6. Reviews and decides on applications for conditional use permits in accordance with the provisions of [Sections 3.12 through 3.14](#);
7. In considering proposed changes in the text of this Ordinance or to the zoning map, the Board of County Commissioners acts in its legislative capacity and shall review requests for amendments in accordance with the requirements of Article 14, Amendments; and
8. Establishes rules and procedures for the enforcement and administration of this Ordinance.

**B. Right to an Impartial Decision Maker.** Pursuant to the requirements of NCGS 160A-388(e)(2), a member of the Board of County Commissioners shall not participate in or vote on a conditional use permit request or any other quasi-judicial matter in a manner that would violate an affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change; undisclosed ex parte communications; a close familial, business, or other associational relationship with an affected person; or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the

remaining members shall by majority vote rule on the objection.

## **2.02 Planning Board**

The Chowan County Planning Board is established pursuant to NCGS 153A-321, to be known as the Chowan County Planning Board and referred to herein as the Planning Board. As an appointed, advisory body, the Planning Board makes recommendations to the Board of County Commissioners as generally authorized by Chapter 153A, Article 18, NCGS.

- A. Appointment and Terms of Planning Board Members.** The Chowan County Planning Board shall consist of seven members appointed by the Board of County Commissioners to terms of three years. Vacancies occurring for reasons other than the expiration of terms shall be filled by the Board of County Commissioners as they occur for the period of the unexpired term. Members shall serve until they are duly replaced.
- B. Officers.** At its January meeting each year, the Planning Board shall elect a chair and vice-chair for the coming year. The chair and vice-chair shall hold office for one year and shall be eligible for reelection. The chair shall preside over all meetings of the Board. The vice-chair shall assist the chair and shall serve as acting chair in the absence of the chair. If the chair is vacated the vice-chair shall become the chair for the remainder of the vacated term.
- C. Duties and Responsibilities.** In general, the Planning Board performs the following duties at the direction of the Chowan County Board of Commissioners:
  - 1. Conducts studies to identify and analyze land use issues of importance to Chowan County;
  - 2. Prepares and recommends to the Board of County Commissioners a comprehensive land use plan and other plans, programs, and policies to achieve community goals and objectives;
  - 3. Develops and recommends regulatory ordinances, text amendments, and administrative procedures to implement adopted land use plans and policies;
  - 4. Makes recommendations to the Board of Commissioners concerning requests for amendments to the text of this Ordinance and rezoning requests in accordance with the provisions of [Section 14.03](#);
  - 5. Informs and advises the general public regarding planning and zoning matters through meetings, hearings, advertisements, publications, and other appropriate methods of communication;
  - 6. Coordinates planning activities with other jurisdictions' planning boards and commissions;
  - 7. Reviews and decides on applications for special use permits in accordance with the provisions of [Sections 3.12 through 3.14](#);

8. Makes recommendations to the Board of County Commissioners concerning requests for [conditional use permits](#) in accordance with the provisions of [Section 3.11](#);
9. Reviews and decides on the approval of site specific development plans (as defined in [Section 3.22, Vested Rights](#)), following the procedural requirements set forth in [Section 3.22](#) of this Ordinance for the issuance of a special use permit; and

Performs any other duties assigned by the Board of Commissioners.

**D. Advisory Committees.**

1. From time to time, the Board of Commissioners may appoint one or more individuals to assist the Planning Board to carry out its planning responsibilities with respect to a particular subject area. Members of such advisory committees shall sit as nonvoting members of the Planning Board when such issues are being considered and lend their talents, energies, and expertise to the Planning Board. However, all formal recommendations to the Board of Commissioners shall be made by the Planning Board. Nothing in this section shall prevent the Board of Commissioners from establishing independent advisory groups, committees, or boards to make recommendations on any issue directly to the Board of Commissioners.
2. The Planning Board shall have such standing committees as it finds necessary and convenient. In addition, the chair may nominate ad-hoc committees members, which shall be voted upon by the full Board. The chair can be an active member of all committees. Committee membership shall be restricted to less than the number required for a quorum of the Planning Board membership.

**E. Meetings of the Planning Board**

1. The Planning Board shall establish a regular meeting schedule and shall meet frequently enough so that it can take action in conformity with the review procedures delineated in this Ordinance and in accordance with any rules of the Chowan County Planning Board.
2. The chair of the Planning Board may call special meetings. A majority of the Planning Board may, by written demand of a majority of its members, call a meeting. Written notice of a special meeting shall be provided to all members at least one week in advance of the meeting.
3. Except when hearing applications for special use permits, the Planning Board need not conduct its meetings strictly in accordance with the quasi-judicial procedures established for the Board of Adjustment. However, it shall conduct its meetings so as to obtain necessary information and to promote the full and free exchange of ideas. When hearing applications for special use permits as authorized in [Section 3.13](#), the Planning Board acts in a quasi-judicial capacity and, accordingly, is required to observe the procedural

requirements except that no vote greater than a majority vote shall be required for the Planning Board to issue a special use permit.

- (a) In the conduct of public hearings to fulfill its responsibilities in [Section 3.13](#), the chair of the Planning Board shall preside at all public hearings and unless overruled by a majority of the Board, shall have plenary power to limit presentations in the interest of brevity, clarity, fairness or other considerations. "Limit" in this sense shall be construed broadly, and shall include the power to provide for the representation of groups by spokespersons.
- 4. Whenever there is no business for the Planning Board, the chair may cancel a meeting, by giving notice to all members not less than ~~twenty-four hours~~ one week before the time set for the meeting. In the event of severe weather or other sufficient cause, the chair may cancel a meeting by giving reasonable notice to all members before the time set for the meeting. In the case of a meeting called by a majority of the Board, the chair may cancel the meeting only upon the concurrence of a majority of the Board.
- 5. All Planning Board meetings shall be open to the public, and whenever feasible the agenda for each board meeting shall be made available in advance of the meeting.

#### **F. Quorum and Voting**

- 1. A quorum for the Planning Board shall consist of a majority of the board membership (excluding vacant seats). A quorum is necessary for the Planning Board to take official action.
- 2. All actions of the Planning Board shall be taken by majority vote, a quorum being present.
- 3. The chair of the Planning Board shall be eligible to vote as any other member.
- 4. A roll call vote shall be taken upon the request of any member. Once a member is physically present at a Planning Board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with subsection 5. or has been allowed to withdraw from the meeting in accordance with subsection 6.
- 5. A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:
  - (a) If the member is reasonably likely to have ~~has~~ a direct, substantial and readily identifiable financial interest in the outcome of the matter at issue that member shall not vote in accordance with NCGS 153A-340(g); or
  - (b) If the matter at issue involves the member's own official conduct; or

- (c) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or
  - (d) If a member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.
6. A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.

**G. Right to an Impartial Decision Maker.** Pursuant to the requirements of NCGS160A-388(e)(2), a member of the Planning Board shall not participate in or vote on a special use permit request or any other quasi-judicial matter in a manner that would violate an affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change; undisclosed ex parte communications; a close familial, business, or other associational relationship with an affected person; or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

**H. Electronic Notice.** Notice to a Planning Board member conforms to a requirement to be in writing if sent by electronic mail to an electronic address provided by the Board member and not returned to the sender with an error message.

## 2.03 Board of Adjustment

**A. Authority.** As an appointed, quasi-judicial body, the Board of Adjustment hears and decides appeals, variance requests, and requests for interpretations from this Ordinance as authorized by NCGS 153A-345. The Board of Adjustment may subpoena witnesses and compel the production of evidence. If a person fails or refuses to obey a subpoena issued by the Board of Adjustment, the Board of Adjustment may apply to the General Court of Justice for an order requiring that its order be obeyed, and the court shall have jurisdiction to issue these orders after notice to all proper parties.

**B. Duties and Responsibilities.** The Board of Adjustment shall carry out the duties outlined in [Article XIII, Appeals, Variances, and Interpretations](#) of this Ordinance. Specifically, the Board of Adjustment shall hear and decide:

1. Appeals from any order, decision, requirement, or interpretation made by the Zoning Administrator, as provided in [Section 13.01](#);
2. Applications for general variances, as provided in [Section 13.02](#) and applications for variances from flood hazard overlay district requirements as provided in [Section 13.02 B.](#);

3. Questions involving interpretations of the zoning map, including disputed district boundary lines and lot lines, as provided in [Section 15.03](#);
  4. Requests for a special exception as provided in [Section 12.03 C.](#); and
  5. Any other matter the Board is required to act upon by any other county ordinance.
- C. Composition.** The Board of Adjustment shall consist of five regular and two alternate members appointed by the Board of Commissioners. All members shall reside within Chowan County.
- D. Terms.** The Board of Adjustment regular members and alternates shall be appointed for three-year staggered terms, but both regular members and alternate members may continue to serve until their successors have been appointed. Vacancies may be filled for the unexpired terms. Members shall be reappointed in accordance with the Chowan County Board of Commissioner's general policies for appointment to boards, commissions, and committees. Regular Board of Adjustment members may be removed by the Board of Commissioners at any time for failure to attend three consecutive meetings or for failure to attend fifty percent or more of the meetings within any twelve-month period or for any other good cause related to performance of duties. Alternate members may be removed for repeated failure to attend or participate in meetings when requested to do so in accordance with regularly established procedures. If a regular or alternate member moves outside of Chowan County, that shall constitute a resignation from the Board, effective upon the date a replacement is appointed. An alternate member may sit in lieu of a regular member. When so seated, alternates shall have the same powers and duties as regular members.
- E. Meetings and Procedures.** The Board of Adjustment shall adopt rules and regulations governing its procedures and operations consistent with the provisions of this Ordinance. All meetings shall be open to the public. Evidentiary hearings shall be conducted in compliance with the requirements of [Section 13.06](#) and notice of the hearings shall be provided in accordance with [Section 13.07](#). The Board of Adjustment shall keep a written public record of member attendance, findings, and decisions.
- F. Quorum.** A quorum for the Board of Adjustment shall consist of the number of members equal to four-fifths of the regular Board membership (excluding vacant seats). A quorum is necessary for the Board to take official action. A member who has withdrawn from the meeting without being excused as provided in subsection G. shall be counted as present for purposes of determining whether a quorum is present.
- G. Voting.** The concurring vote of four-fifths of the regular Board membership (excluding vacant seats) shall be necessary to reverse any order, requirement, decision, or determination of the Zoning Administrator or to decide in favor of the applicant any matter upon which it is required to pass under any ordinance or to grant any variance. All other actions of the Board shall be taken by majority vote, a quorum being present. For the purposes of this subsection, vacant positions

on the Board and members who are disqualified from voting on a quasi-judicial matter shall not be considered 'members of the board' for calculation of the requisite supermajority if there are no qualified alternates available to take the place of such members.

1. Once a member is physically present at a Board meeting, any subsequent failure to vote shall be recorded as an affirmative vote unless the member has been excused in accordance with [subsection G. 2.](#) or has been allowed to withdraw from the meeting in accordance with [subsection G. 3.](#)
2. A member may be excused from voting on a particular issue by majority vote of the remaining members present under the following circumstances:
  - (a) If the member has a direct financial interest in the outcome of the matter at issue; or
  - (b) If the matter at issue involves the member's own official conduct; or
  - (c) If participation in the matter might violate the letter or spirit of a member's code of professional responsibility; or
  - (d) If a member is related by blood or marriage to the applicant or the adjacent property owners or has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest.
3. A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at that meeting.
4. A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.
5. A roll call vote shall be taken for each motion.

**H. Board of Adjustment Officers.** The Board of Adjustment shall, by majority vote of its membership (excluding vacant seats) elect one of its members to serve as chair and preside over the Board's meetings and one member to serve as vice-chair. The persons so designated shall serve in these capacities for terms of one year. Officer vacancies may be filled for the unexpired terms only by a majority vote of the Board membership (excluding vacant seats). The chair or any member temporarily acting as chair may administer oaths to witnesses coming before the Board. The chairman and vice-chair of the Board of Adjustment may take part in all deliberations and may vote on all issues. A staff member of the Planning and Inspections Department shall serve as the recording secretary to the Board of Adjustment.

**I. Right to an Impartial Decision Maker.** Pursuant to the requirements of NCGS160A-388(e)(2), a member of the Board of Adjustment shall not participate



in or vote on any quasi-judicial matter in a manner that would violate affected persons' constitutional rights to an impartial decision maker. Impermissible conflicts include, but are not limited to, a member having a fixed opinion prior to hearing the matter that is not susceptible to change, undisclosed ex parte communications, a close familial, business, or other associational relationship with an affected person, or a financial interest in the outcome of the matter. If an objection is raised to a member's participation and that member does not recuse himself or herself, the remaining members shall by majority vote rule on the objection.

## **2.04 Planning and Inspections Department**

**A. Duties and Responsibilities.** The Planning and Inspections Department serves as the lead agency for the overall administration of this Ordinance and serves as the primary professional staff of the Planning Board and Board of Adjustment.

**1. Planning Director.** The Planning Director performs the following duties:

- (a) Supervises the various activities of the department;
- (b) Develops and maintains the comprehensive plan, area plans, other specialized plans, policies, and regulations for plan implementation;
- (c) Provides recommendations to the Planning Board, Board of Adjustment, Board of County Commissioners, and County Manager;
- (d) Provides administrative assistance to special boards, committees, and commissions;
- (e) Serves as Executive Secretary to the Planning Board;
- (f) Performs other functions as may be necessary to effectively administer the county's overall planning program; and
- (g) The Planning Director or designee serves as the Zoning Administrator.

**2. Zoning Administrator.** Except as otherwise specifically provided, primary responsibility for administering and enforcing this Ordinance may be assigned to one or more individuals by the Planning Director. The person or persons to whom these functions are assigned shall be referred to in this Ordinance as the 'Zoning Administrator'. The Zoning Administrator or designee shall be responsible for the following duties:

- (a) Establish and publish application procedures for permits, appeals, and actions pursuant to this Ordinance and forms implementing the same;
- (b) Issue permits and certificates pursuant to this Ordinance;
- (c) Review all development plans and permits to assure that the permit requirements of this Ordinance have been satisfied;

- (d) Interpret the applicability of the provisions of this Ordinance in matters where the text does not clearly provide guidance;
- (e) Maintain all records pertaining to the provisions of this Ordinance in his office(s) and make said records open for public inspection;
- (f) Periodically inspect properties and activities for which permits have been issued to determine whether the use(s) is being conducted in accordance with the provisions of this Ordinance;
- (g) Cause to be investigated violations of this Ordinance;
- (h) Enforce the provisions of this Ordinance;
- (i) Serve as Executive Secretary to the Board of Adjustment;
- (j) Issue notice of corrective action(s) when required;
- (k) Use the remedies provided in this Ordinance to gain compliance;
- (l) Gather evidence in support of said activities;
- (m) Receive appeals and forward cases to the appropriate Board;
- (n) Perform the specific flood damage prevention duties delineated in [Section 7.02 H.](#); and
- (o) Perform other necessary functions to effectively administer this Ordinance.